



ASX Circular

Date: 12 February, 2008

Key topics

1. Tricom Equities Limited

Reading List

Client Advisers
Compliance Managers
DTR Operators
Managing Directors
Office Managers
Operations Managers (back office)

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No responsibility is accepted for any inaccuracies contained in the matter published.

DISCIPLINARY MATTERS

The ASX Disciplinary Tribunal ("the Tribunal") has determined the following:

Tricom Equities Limited ("Tricom") has been fined a total of \$25,000 plus GST in respect of the following contraventions that occurred in August and September 2006:

ASX Market Rule 19.1.2 in that it executed Short Sales of Redport Limited shares ("RPT") which were not in accordance with Section 19 of the ASX Market Rules.

ASX Market Rule 19.6.1(a) in that it did not advise the ASX by 9.00am of its net short sale position as at 7.00pm on the previous Trading Day.

ASX Market Rule 5.7.3 in that it failed to ensure that each Cash Market Transaction to which it was a party was settled on the third Business Day following the date that the transaction was created on, or reported to the Market.

Without admitting or denying ASX's allegations, Tricom did not contest the contraventions before the Tribunal.

In determining sanction the Tribunal took into account a number of matters.

- The circumstances and facts of the matter.
- The importance of ASX Market Rules 19.1.2, 19.6.1(a) and 5.7.3. In particular, the Tribunal considers that the failure to comply with these requirements has the potential to adversely affect and undermine the integrity of the market.
- The unintentional and inadvertent nature of the contraventions.
- At the relevant time, the matter was an isolated and one-off related series of incidents.
- At the relevant time, the remedial actions undertaken by Tricom to address the issue and to prevent any future reoccurrence.
- Tricom co-operated with ASX Investigations in the investigation of the matter and elected that they would not contest the proceedings.
- The breach did not involve any malicious intent or fraud.
- Tricom's good prior disciplinary history.
- No client or other party has been adversely affected by the breach except the counterparty to the failed settlements.

The circumstances of this matter are as follows:

On 23 August 2006, Tricom made inquiries of a stock lender as to the availability of two million RPT shares. The stock lender confirmed availability, and Tricom

requested that the shares be placed on hold, expecting delivery in the ordinary course. No shares were delivered to Tricom's accounts as a result of this request, contrary to the perceived understanding with the stock lender and the history of deliveries by that particular stock lender.

On 30 August 2006 Tricom began selling RPT, relying on the telephone conversation of 23 August 2006 and past practice with the stock lender and industry practices. It continued selling RPT for the next two days.

The sales made by Tricom beginning on 30 August 2006 failed to settle the transactions on T + 3, and the sales did not settle until 15 September 2006. On becoming aware of the failed settlements, Tricom actively sought alternative supplies of RPT shares for settlement.

ASX Market Rule 5.7.3 is, in the Tribunal's view, one of the means by which ASX has sought to satisfy its statutory obligation to do all things necessary to ensure that the Market, which it is licensed to conduct, is fair, orderly and transparent. This rule governs the relationship between the participants and the ASX in relation to settlement and promotes commercial certainty. The conduct of Tricom in failing to settle each cash market transaction to which they were a party, on the third Business Day following the date that the transaction was created on or reported on the market, interfered with the integrity of the market, and which in the circumstances, requires that the Tribunal impose a significant penalty.